

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

GREGORY C. WITTMAN,

Plaintiff,

Case No. 18-cv-14063
Hon. Matthew F. Leitman

v.

DURHAM SCHOOL SERVICES/
NATIONAL EXPRESS CORP., *et al.*,

Defendants.

**ORDER (1) OVERRULING PLAINTIFF’S OBJECTIONS TO THE
MAGISTRATE JUDGE’S REPORT AND RECOMMENDATION (ECF No.
25), (2) ADOPTING THE MAGISTRATE JUDGE’S REPORT &
RECOMMENDATION (ECF No. 24), (3) GRANTING DEFENDANTS’
MOTION TO DISMISS (ECF No. 20), AND (4) DISMISSING WITH
PREJUDICE PLAINTIFF’S SECOND AMENDED COMPLAINT (ECF No.
19)**

In this action, Plaintiff Gregory C. Wittman alleges that Defendants Durham School Services, Stacy Bobzean, Cheri Henrion, and D & M LLC (“Defendants”) denied him a safe work environment, harassed him, and wrongfully suspended him. (*See* Second Am. Compl., ECF No. 19, PageID.70.) Wittman brings claims against Defendants under Title VII of the Civil Rights Act of 1964 and the Occupational Safety & Health Act (“OSHA”). (*See id.*) Defendants have filed a Motion to Dismiss (ECF No. 20).

In a Report and Recommendation (the “R&R”) (ECF No. 24), the assigned Magistrate Judge recommended dismissing Wittman’s claims with prejudice. The Magistrate Judge explained that Wittman’s Title VII claims fail because he has not alleged that he is a member of a class that is protected by Title VII and that Wittman’s OSHA claims fail because OSHA does not provide a private cause of action. (*See* R&R, ECF No. 24, PageID.93–94.)

Wittman timely submitted objections to the R&R. (*See* Objections, ECF No. 25.¹) But none of Wittman’s objections address the Magistrate Judge’s reasoning or analysis. Wittman still does not contend that he is a member of a class that is protected by Title VII. And Wittman does not attempt to show that he may assert a claim under OSHA. In sum, Wittman has not shown any error in the Report and Recommendation.

Accordingly, the Court **OVERRULES** Wittman’s Objections (ECF No. 25), **ADOPTS** the R&R (ECF No. 24), **GRANTS** Defendants’ Motion to Dismiss (ECF No. 20), and **DISMISSES WITH PREJUDICE** Wittman’s Second Amended

¹ Wittman’s filing is entitled “Response to Report and Recommendation and Motion for Reconsideration” (ECF No. 25). The Court believes that the filing is properly treated as Wittman’s objections to the R&R under Local Rule 72.1(d). On June 29, 2020, the Court notified Wittman that it intended to treat his filing as his objections to the R&R. The Court instructed Wittman to inform the Court by no later than July 17, 2020, whether he believed that the filing should be treated as something other than his objections under Local Rule 72.1(d). (*See* Notice, ECF No. 27, PageID.112.) Wittman did not do so. Accordingly, the Court treats his filing (ECF No. 25) as his objections to the R&R.

Complaint (ECF No. 19). The Court declines to permit Wittman to file a Third Amended Complaint. The Magistrate Judge gave Wittman two opportunities to amend his pleading, and thus he has already had a full and fair opportunity to state a viable claim.

IT IS SO ORDERED.

s/Matthew F. Leitman

MATTHEW F. LEITMAN

UNITED STATES DISTRICT JUDGE

Dated: August 11, 2020

I hereby certify that a copy of the foregoing document was served upon the parties and/or counsel of record on August 11, 2020, by electronic means and/or ordinary mail.

s/Holly A. Monda

Case Manager

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